THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

–

WRIT PETITION No.19394 OF 2005

–

Dt: 21.09.2005

Between:

Nandulal

.. Petitioner

AND

Saraswathi Grameena Bank,

Adilabad, rep., by its Chairman.

.. Respondent

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.19394 OF 2005

ORDER:

The petitioner is working as an Officer in the Saraswathi Grameena Bank, Adilabad, the respondent herein. He was issued a Memo, dated 22.03.2003, stating that during the course of inspection of the Pendalwada Branch, it was noticed that the petitioner did not ensure that special adhesive stamps are affixed on certain documents pertaining to the sanction of loan for Kharif season of 2002. It was also pointed out

that the lapse in this regard exposed the bank to liability under the Stamp Act and the petitioner was required to offer his comments. In response to the same, the petitioner submitted his explanation on 06.09.2003. He pleaded that there was an inadvertent mistake on his part in ensuring that the stamps were properly affixed and undertook that such an instance do not recur. It was also pleaded that the failure to fix the stamps was on account of non-availability of special adhesive stamps.

On a consideration of the same, the Disciplinary authority/Chairman passed an order, dated 23.03.2004, imposing the punishment of reduction of four increments, for a period of four years with effect from 18.03.2004. Aggrieved by the same, the petitioner preferred an appeal to the Board of Directors. The decision of the appellate authority was communicated to the petitioner, through letter, dated 06.07.2004, by the Manager. The appellate authority reduced the punishment to the one of reduction of the pay of the petitioner by two stages for a period of two years. The petitioner challenges these proceedings.

It is urged that the disciplinary authority as well as the appellate authority did not furnish any reasons in support of their conclusions. It was also submitted that the failure to affix the stamps was on account of the non-availability of the stamps and as long as there was no financial loss to the bank, the petitioner cannot be made to suffer. The petitioner assails the action of the respondents in denying next promotion to him.

In the counter-affidavit, which was filed by the respondent, it is pleaded that being an Officer of the Bank, the petitioner ought to have been careful and ensure that the provisions of the Stamp Act are complied with. It is contended that along with the petitioner, several other employees were also proceeded against and depending upon their involvement and gravity, suitable punishments were inflicted.

Sri V. Ravinder Rao, learned counsel for the petitioner, submits that the disciplinary authority had referred to findings in the enquiry while inflicting the punishment, but has not chosen to supply a copy of the proceedings in which the said findings have

been recorded. He contends that not a single reason worth its name was furnished by the disciplinary authority before it was decided to inflict the punishment of reduction of pay by four stages. Learned counsel points out that the petitioner was denied the promotion on the sole basis of pendency of the disciplinary proceedings, contrary to the service regulations.

Learned Standing Counsel for the respondent, on the other hand, submits that since the punishment inflicted against the petitioner was minor in nature, no departmental enquiry was conducted and in that view of the matter, there was no occasion for furnishing any copy of the report. He contends that the failure to affix the stamps would have its own effect, touching upon the validity of the documents and the lapse committed by the petitioner cannot be treated as trivial. As regards, the denial of promotion of the petitioner, he contends that though the petitioner was permitted to appear for the written test, he was not called for interview because of the reason that he was already inflicted with the punishment by the time the interviews were held.

A perusal of the order, passed by the disciplinary authority on 22.03.2004, discloses that he made a specific reference to “findings of the enquiry”. However, he did not choose to indicate the nature of findings, nor did he refer to any proceedings in which the so called findings are said to have been recorded. It is true that what is imposed against the petitioner is a minor penalty, and it is not necessary to hold a departmental enquiry before such punishment is inflicted by the same disciplinary authority. This itself cannot absolve from the obligation to record reasons. For all practical purposes, the order, dated 22.03.2004, is not a speaking one.

The decision of the appellate authority is almost on similar lines except that it has reduced the punishment almost by half. This Court would have considered the feasibility of remanding matter for fresh adjudication and disposal in accordance with law, duly setting aside the orders under challenge. However, having regard to the fact that the petitioner himself admitted his lapse, it is felt just and proper that the punishment imposed against him is reduced to the one of stoppage of one increment for a period of one year. Inasmuch as, the increments have already been stopped for a period exceeding one year, the petitioner would be entitled to be restored such of

the monetary benefit, which was denied to him ever since the date of the disciplinary proceedings i.e., 22.03.2004.

So far as the denial of promotion is concerned, admittedly there were no proceedings pending against the petitioner, by the time he became due for consideration, and in fact, was permitted to appear in the examination. The action of the respondent, in not inviting the petitioner for interview on the ground that an order of punishment was issued against him, is difficult, to be sustained. In view of the modification of the order of punishment by this Court, his case needs to be considered afresh on the basis of his performance in the written test conducted already.

Therefore, the writ petition is disposed of directing that:

a. The punishment imposed against the petitioner shall stand modified to the one of stoppage of one increment for a period of one year with effect from 22.03.2004 and since the period has already expired, the necessary refixation of salary shall also be made forthwith.

b. The case of the petitioner for promotion shall be considered by holding a meeting of the DPC, within six weeks from the date of receipt of a copy of this order and the consideration shall be on the basis of his performance in the written test conducted in November/December 2003.

There shall be no order as to costs.

_____

21.09.2005

ES